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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/689,736	10/22/2003	Chihiro Hirose	Q78122	4328

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EXAMINER

ZANELLI, MICHAEL J

ART UNIT PAPER NUMBER

3661

DATE MAILED: 02/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/689,736

Applicant(s)

HIROSE ET AL.

Examiner

Michael J. Zanelli

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☒ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/22/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The application filed 10/22/03 has been examined. Claims 1-9 are pending.
2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.
3. The IDS filed 10/22/03 has been considered.
4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.
5. Claims 7-9 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 7-9 are directed to a computer program without a computer-readable medium necessary for imparting the computer program's functionality. Computer programs in and of themselves do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer which permit the computer program's functionality to be realized. Such computer programs constitute functional descriptive material which is nonstatutory. See MPEP 2106(IV)(B)(1)(a).

The examiner suggests rewriting the claims as "A computer readable medium having a computer program product for ...".

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Ohashi et al. (6,026,346).

A. As per claims 1, 3, 5 and 7, Ohashi discloses a computer-based navigation system and method which includes off-route detection and recovery processes (Abs). Fig. 1 shows the basic system which includes a position acquisition unit (6), a display (3) for displaying the guide route (col. 3, lines 9-11) and a navigation control apparatus (1) which performs the functions of route calculation, tracking, off-route detection and route recovery (col. 7, line 17 to col. 9, line 44). Based on conditions related to the detection of an off-route (veering) situation, Ohashi determines a travel route back to the original route or a different route to the destination (col. 8, line 54 to col. 9, line 10; col. 9, lines 37-44). As noted in col. 10, lines 47-54, the navigation system is controlled by a computer program embodied on a computer-readable medium.

B. As per claims 2, 4, 5, 8 and 9, as above whereby upon detection of an off-route (veering) condition, route determining processes are performed based on various criteria (col. 8, line 54 to col. 9, line 10; col. 9, lines 37-44).

8. Claims 1-9 are further rejected under 35 U.S.C. 102(b) as being anticipated by Nimura et al. (6,064,941).

A. As per claims 1, 3, 5 and 7, Nimura discloses a computer-based navigation system and method which includes off-route detection and recovery processes (Abs). Fig. 1A shows the basic system which includes a position acquisition unit (2), a display (12) for displaying the guide route (col. 4, lines 49-51) and a central processing unit (4)

which performs the functions of route calculation, tracking, off-route detection and route recovery (col. 4, lines 9-37). Based on conditions related to the detection of an off-route (veering) situation, Ohashi determines a travel route back to the original route or a different route to the destination (col. 9, lines 2-11; col. 9 line 64 to col. 10, line 3). As noted in col. 5, line 46 to col. 6, line 44, the navigation system is controlled by computer program(s) embodied on computer-readable medium(s).

B. As per claims 2, 4, 5, 8 and 9, as above whereby upon detection of an off-route (veering) condition, route determining processes are performed based on various criteria (col. 9, lines 2-11; col. 9 line 64 to col. 10, line 3).

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patent to LeFebvre et al. (5,659,476) is considered to be highly relevant for its discussion of various conditions used in determining how to determine travel routes after an off-route event (cols. 5-6).

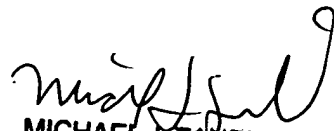
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Zanelli whose telephone number is (703) 305-9756. The examiner can normally be reached on Monday-Thursday 5:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas G. Black can be reached on (703) 305-8233. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/mjz


MICHAEL J. ZANELLI
PRIMARY EXAMINER